

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

JULIE SCOTT and KATHY SWEET,

Plaintiffs,

V.

**COMBINED INSURANCE COMPANY
OF AMERICA,**

Defendant.

CIVIL ACTION

No. 04-2336-CM

MEMORANDUM AND ORDER

Plaintiffs bring this gender discrimination lawsuit pursuant to Title VII, 42 U.S.C. §§ 2000e *et seq.*, and the Kansas Act Against Discrimination, Kan. Stat. Ann. §§ 44-1101 *et seq.* They allege that defendant, their former employer, subjected them to a hostile work environment and disparate treatment. They also claim that defendant demoted them in retaliation for reporting the harassing and discriminating actions. Defendant filed a Motion for Summary Judgment (Doc. 59), proposing 92 uncontroverted facts for the court to consider. Plaintiffs' response included an additional 502 facts spanning 87 pages, totaling 595 proposed uncontroverted facts which are currently before the court.

Defendant replied to the uncontroverted facts plaintiffs offered, but also filed a Motion to Strike Plaintiffs' Additional Uncontroverted Facts (Doc. 67). Defendant claims that plaintiffs' additional facts fail to contain competent evidence and violate applicable rules and case law.

At issue here are three of the requirements imposed on responses to motions for summary judgment. D. Kan. R. 56.1(b)(2) requires that a party opposing summary judgment who relies on any facts

not contained in the movant's memorandum "set forth each additional fact in a *separately numbered paragraph*" in the same manner required by subsection (a). Subsection (a) requires that the statement of facts be *concise* and limited to *material* facts. D. Kan. R. 56.1(a) (emphasis added).

Plaintiffs' proposed additional facts fail to comply with all three requirements. First, the majority of the paragraphs contain more than one fact, which is improper under Rule 56.1(b)(2). Second, the recitation of facts is not concise – plaintiffs' facts largely consist of summaries or digests of plaintiffs' depositions, tracking the transcripts page-by-page and line-by-line. Many facts appear multiple times in different paragraphs. And third, the court questions whether plaintiffs made any attempt to identify those facts which are material to the issues at hand. It appears to the court that plaintiffs want the court to consider the entire record before it, even those portions which are irrelevant or inadmissible for other reasons.

The court finds that plaintiffs' submission of additional facts is entirely improper and should be stricken from the record. In the interest of justice, however, the court will grant plaintiffs leave to resubmit proposed additional *material* uncontroverted facts in the proper format within 11 days. Defendant may then reply to those facts within another 11 days. Although the court strongly considered imposing a page limit, the court will not impose a paragraph or page limit on plaintiffs. But plaintiffs are advised that a pleading which is as cumbersome to review as the one presently before the court may be stricken, and the court would then consider the pending motion for summary judgment based solely on the uncontroverted facts properly presented by defendant.

Although defendant also asks the court to award attorney fees incurred in responding to plaintiffs' additional facts, the court declines to do so at this juncture. If plaintiffs continue to disregard the rules and

case law governing motions practice in federal court, the court may be more inclined to consider a motion for attorney fees at a later date.

IT IS THEREFORE ORDERED that Defendant's Motion to Strike Plaintiffs' Additional Uncontroverted Facts (Doc. 67) is granted. Plaintiffs have 11 days from the date of this Memorandum and Order to resubmit any additional uncontroverted facts they wish for the court to consider. Defendant may reply to any such additional uncontroverted facts within 11 days.

Dated this 13th day of January 2006, at Kansas City, Kansas.

s/ Carlos Murguia
CARLOS MURGUIA
United States District Judge